

**PUBLIC MEETING**  
**January 7, 2003**

Chair Anita Varone called the meeting to order at 9:00 a.m.

Commissioners Mike Murray and Ed Tinsley were present. Others attending all or a portion of the meeting included Ron Alles, Sharon Haugen, Michael McHugh, Jerry Grebenc, Frank Rives, Tom Hoffman, Dean Retz, Pat Faber, Jim Martin, Chick Canterbury, Cindy Morrison Swank, Jim Taylor, Kim Smith, Dick Thweatt, Roger Wardell, Ed Churchill, Tom Rapp, Terry Scow, Jerry Shepherd, Robert Hudnall, Art Pembroke, Lonnie Brookshire, Julie Davis, Steve Mandeville, Rick and Mary Kenison, Kirby Christian, Jerry Christison, and Carole Byrnes.

Pledge of Allegiance. Everyone recited the pledge.

Tax Abatement Public Hearing, Summit Design and Manufacturing. Sharon Haugen reported that Summit Design and Manufacturing has submitted a request to apply for tax abatement under Section 15-24-1401 and 1402, MCA. This section of law allows local governments to grant tax abatements for new and expanding businesses. Summit Design and Manufacturing has recently purchased a piece of equipment with a value of \$1 million. Summit has previously applied for and has been granted tax abatements by the city and the county. Summit now has 48 employees and will add 50 new positions to fulfill a contract with the new equipment in place. They have met all other criteria of the city and the county. Staff recommended that the county grant the tax abatement. The average annual value of the tax abatement is approximately \$12,000-\$13,000.

The Commission opened the public hearing.

Tom Hoffman, 3200 Skyway Drive, Helena. Mr. Hoffman reported this is the third tax abatement Summit has applied for. The purchase of this equipment will be used to fulfill a contract for the Boeing Company. The contract period will be 12 years. He appreciates the Commission's consideration in this request.

Hearing no other comments, the public hearing is closed. Commissioner Murray moved to approve the resolution granting the tax abatement application and authorized the chair to sign. Commissioner Tinsley seconded the motion and it carried unanimously. Commissioner Tinsley stated Summit Engineering is a good example of the kind of business we need to bring to this county.

The City Commission will hear this application Monday, January 13.

Board Appointment / West Valley Volunteer Fire District. Commissioner Tinsley moved to approve the appointment of Dean Rognrud until the May election, replacing Trustee Daryl Olsen. Commissioner Murray seconded the motion and it carried unanimously.

Information Technology & Services Policies. (cont. from 1/2/03). Art Pembroke reported nine ITS Policies have been through legal review by both city and county

attorneys, the ITS Steering Committee, and the ITS Board. These policies were adopted by the City Commission on December 16 and will govern the use of computers within city and county government. Commissioner Murray moved to adopt the nine proposed ITS policies. Commissioner Tinsley seconded the motion and it carried unanimously.

Request for Modification of Conditions of Approval for the Lazy JC Acres Subdivision. (cont. from 12/19/02). The applicant, Jerry Christison, has requested the Commission to amend condition of approval #8 to permit the internal access road to remain as it was originally constructed.

Commissioner Tinsley stated for the record that he inadvertently violated the ex parte policy on December 27 while visiting the road in question and discussing with the applicant where the new road was going to be moved.

Commissioner Murray stated that since an ex parte breach has occurred and the fact that the commissioner has indicated he would like to vote on the modified condition of approval, he moved that the commission schedule another hearing on the requested modification of condition of approval including advertising the hearing and move the record as it exists forward to the next public hearing. Commissioner Tinsley seconded the motion. Commissioner Varone voted no. The motion carried 2-1.

Frank Rives reported that Mr. Christison has requested his modification request be withdrawn because he cannot accept any further delays and he will accept the previous conditions that were approved in the first modification of conditions of approval.

Commissioner Varone asked Mr. Christison to put his withdrawal request in writing.

Request for a One-Year Extension of Preliminary Plat Approval for the Winston Livestock Company Minor Subdivision. Jerry Grebenc reported that the applicant, Rick Diehl, has requested a one-year extension to November 29, 2003. The applicant has exhibited due diligence and staff recommended approval of a one-year extension. Commissioner Murray moved to grant a one-year extension of preliminary plat approval through November 29, 2003. Commissioner Tinsley seconded the motion and it carried unanimously.

The Commission recessed and reconvened at 9:30 a.m.

Proposed Major Subdivision, Preliminary Plat, Gable Estates Amended Major. The applicant proposes to resubdivide six (6) twenty-acre parcels to create 23 additional lots, each for one single-family dwelling. The proposed subdivision is generally located north of and adjacent to Lincoln Road and west of Mountain Heritage Road. Dean Retz was present representing the applicant, Scott Truscott, and indicated his willingness to proceed. Michael McHugh presented the staff report. Mr. McHugh corrected the staff report to read 7 parcels are being resubdivided, not 6. The applicant proposes to take the 7 northern and eastern 15 and 20-acre lots and turn them into 5 plus-acre parcels.

The Helena Irrigation canal is located along the northern boundary of some of the lots. The Novak Dairy is located east of this proposal. There is no zoning in this area. When the original subdivision was platted, covenants were placed on the subdivision dealing with public health and safety issues, and the establishment of a Homeowner's Association. Many telephone calls to the planning department expressed displeasure with the resubdivision proposal. Prior to this meeting staff received a letter from Chick Canterbury representing 34 neighbors in opposition to this proposal. The subject property is located in an area that is historically considered viable agriculture. This increases potential for conflicts between agricultural uses and residential uses. The dairy operation to the east of the subject property has been issued a permit by DEQ for land application of manure and septage. The City-County Health Department has received numerous complaints of unpleasant odors from the adjacent property owner. Water rights would be divided among the newly approved lots. In the previous proposal there was a fencing requirement to allow movement of wildlife. A property owner to the north of the subject property has placed a gate across the opening preventing the movement of wildlife. The Commission must determine whether or not to allow the gate to remain closed. The property has been designated by the DNRC as the North Hills Groundwater Control area for two years beginning October 2001. All new wells will be required by DEQ to conduct 24-hour pump tests. The roads within this subdivision are constructed to county gravel standards. The applicants have petitioned the county to establish an RID to pave Mountain Heritage Road to the irrigation canal and hard surface all of the roads in the Gable Estates Major Subdivision. Staff received a copy of preliminary engineering estimates to determine preliminary costs of hard surface and maintenance. The estimates indicate the RID payment per year per lot is \$1,231.42 including \$1,160.39 for construction and \$70.65 for maintenance based on a 10-year Intercap loan with a 5.75 percent interest rate. The applicant would be required to construct the newly designed cul-de-sac roads to gravel standard and the RID would do the hard surface and maintenance afterwards.

The property is located within the Lakeside Fire Service Area. The applicants would construct a well in the common area located at the intersection of Mountain Heritage Road and Lincoln Road to provide fire protection for the subdivision. The fire district has not commented on the additional proposal. Another 5-year weed management plan would be required due to weed infestation. The addition of the 26 lots plus the original lots would have a major visual impact on the surrounding area. The irrigation canal has the potential to become a hazard to small children. The subject property is located less than a ¼ of a mile from several fault lines and has a higher than normal potential for seismic activity. The applicant has requested a variance for the length to width ratio. There is no parkland dedication requirement for the subdivision. Staff recommended approval subject to 17 conditions as outlined in the staff report. Staff discussed the concerns of the Planning Board. The main concern of those in opposition to this proposal is the lack of groundwater in the area, the inadequacy of the Mountain Heritage water supply system, and their quality of life. The Planning Board voted 5-4 in favor of this subdivision proposal.

Commissioner Murray moved to enter into the public record a letter from Chick Canterbury. Commissioner Tinsley seconded the motion and it carried unanimously.

Dean Retz, 1430 Shirley Road. Mr. Retz stated two lots have occupied homes on them and three homes are under construction. The applicant has proposed new covenants for the amended plat. The original road has been certified by an engineer. Three new existing internal access roads will be constructed to county standard #3, hard surfaced with the RID, and an engineer will certify the gravel road prior to the RID. Mountain Heritage Drive will be hard surfaced to the Helena Valley Irrigation Ditch. A meeting is scheduled with Lakeside Fire Department to discuss fire service provisions for the amended plat. Weed spraying was done on some lots in September. The applicant has submitted a variance dealing with the length to width ratio. The applicant concurs with the 17 recommended conditions of approval. Mr. Retz stated he did not know about the issues dealing with the dairy farm but it should not affect this property except for the odor.

Patrick Faber, Hydrogeologist, Box 1359 Helena. Mr. Faber stated that he conducted the original water availability study and non-degradation study for Gable Estates and a pump test on one of the wells to the west of this subdivision and ranks it as a good aquifer with minimal impact on the neighbors. This subdivision will be reviewed by DEQ and will require at least two pump tests.

The Chair opened the public hearing.

Janice Conselyea, 6070 Northslope Road. Ms. Conselyea expressed concerns about the expansion of this property. This proposal will destroy the migratory wildlife and cause overcrowding of the two-lane highway. Mountain Heritage Road was not graded which is why people have been driving in the ditch. Also, this proposal will destroy the rural atmosphere of the area. Her well, which is adjacent to the irrigation ditch, went dry and she is concerned there will not be enough water in the future. In April, the DNRC released a study stating the recharge of the aquifer was slow and, because of the drought, the aquifer is not being recharged. Unwise decisions threaten survival of homeowners, the quality of life they have chosen, and destroys habitat.

Commissioner Murray left the meeting to accept a telephone call.

Rock Wordal, 5980 Lakeview Drive. Mr. Wordal expressed his concerns about the availability of water. The wells will be recharged with water from the Missouri River and the irrigation ditch which has known elevated levels of arsenic. Two hundred thirty horses and 112 people is too much on 100 acres of land with septic systems. The original agreement is not what the applicants agreed to. Mr. Wordal installed the gate to allow the developers access to the dump, but people have been trespassing on the irrigation district road, which is a private road.

Jim Martin, 6062 Lakeview Road. Mr. Martin expressed his opposition to this proposal. He encouraged the Commissioners to stop urbanization in rural areas and curtail future

development to maintain open space wildlife. He urged the Commissioners to deny this proposal.

Chick Canterbury, 5965 Northslope Road. Mr. Canterbury was present speaking for himself and on behalf of 34 neighbors. They support private property rights for all citizens and support planned, honest, and responsible development. Mr. Canterbury read his prepared statement. The proposed amendment would effectively subdivide all the larger lots into 5-acre parcels, double the size of the subdivision, and abrogate any efforts to mitigate the issues addressed in the original application. He urged the Commissioners to maintain the integrity of the original design by denying the proposed amended plat.

Cindy Morrison Swank, 6670 Sleeping Giant Road. Ms. Morrison Swank stated this is another subdivision in a controlled groundwater area. The DNRC groundwater study will be out of date before it is published. She cautioned the Commissioners to wait for the results of the study before allowing more development.

Dick Thweatt, 36 Harrison Ave. Mr. Thweatt stated there is conflict between existing residents who want to keep the rural character of the area and development. The Commission should take a collaborative effort through neighborhood planning and not put the burden on the citizens to initiate the planning process.

Kim Smith, 3734 McHugh. Mr. Smith believes this is a good proposal with hard surface roads to mitigate dust.

Mike Barrett. Mr. Barrett asked to speak about his 20-page intelligence paper. Commissioner Varone stated that public comment is for Gable Estates Subdivision only and asked him to meet with staff after today's meeting.

Hearing no other public comments the public hearing is closed. General discussion took place with staff regarding DEQ's water regulations for new development, well drillers and property owner's responsibilities for filing well logs, and DNRC's authority to stop subdivisions. Commissioner Varone asked Mr. Stahl to explain the process commissioners are required to go through relative to subdivision regulations in making their determination. Mr. Stahl stated the Commission must follow state statute and the subdivision regulations as adopted. Public comment used to be part of the criteria that a Commission would consider but it is no longer part of what is considered. Zoning gives people the opportunity to regulate things that many of the community are testifying about rather than subdivision regulations. Much of what the Commission is hearing from the public cannot be considered as a basis for determination and would subject the county to liability if it does not meet one of the criteria that have been examined by staff.

The Commission recessed and reconvened at 11:00 a.m.

Dean Retz stated that the effective date of the groundwater study is October 11, 2002. The road will be hard-surfaced apron from the corner of Mountain Heritage Drive to Lincoln Road East to the canal at no cost to Mountain Heritage Subdivision landowners because they are not members of the RID. DEQ has approved all 26 lots with standard septic systems.

Pat Faber stated the water has been imported from the Missouri River through the irrigation system for about 50 years and will continue to be imported at the rate of 16 million gallons a year whether the subdivision is approved or denied. The controlled groundwater area petition was denied by DNRC and in its place put in a temporary controlled groundwater study area.

Kim Smith responded to a comment made by a landowner that his well had been contaminated. He stated he sprayed weeds on his lots late in the fall. The road is better now and will produce less dust after the irrigation district road is paved. These lots will be irrigated which will be beneficial to the area. The septic system will be better in this subdivision than in other areas and less groundwater will be used.

Hearing no other comments, Commissioner Murray moved that the Commission render a final decision January 23 at 9:00 a.m. Commissioner Tinsley seconded the motion and it carried unanimously.

Proposed Major Subdivision, Preliminary Plat, Fieldstone Estates Phase 1 Major. (cont. from 12/10/02) The applicants propose to create 177 lots, 165 for single-family dwellings 3 for commercial, and 5 for multiple family residential and 4 for water, wastewater, parks and storm water drainage. The proposed subdivision is generally located north of Lincoln Road, east of I15 and west of and adjacent to Glass Drive.

Commissioner Varone explained that today's hearing is to allow the applicants an opportunity to respond to comment letters received during the comment period.

Jim Taylor discussed the variance request to not require applicants to upgrade the northern loop of Glass Drive and beyond to a county standard, fire flow requirements, and issues based on regulations, standards and rules, and smart growth.

Pat Faber offered general comments about letters from Mr. and Mrs. Drake and Water Rights Solution dealing with water availability. He sees an attempt to derail the process and an attempt to stay away from science.

Kirby Christian, Christian, Sampson, Jones, & Chisholm Law Firm, Box 8479, Missoula, answered questions regarding the legal aspects of the development, addressed the variance, and public health and safety. According to documented information provided by the water engineer, there is an availability of water present at this subdivision. DEQ review will insure that the septic system is designed correctly and adequately. This proposal has two access points from Glass Drive and it allows for a loop in the interior of the subdivision for an escape route. The applicant has withdrawn the proposed

second access route to Lincoln Road and will rely on Glass Drive as the access with a variance request to the north.

Jim Taylor stated this system will be designed with a storage concept where water will be pumped from the wells into a storage system and then repumped into the distribution system for domestic and fire flow purposes, based on 80,000 gallon storage requirements.

Chief Jerry Shepherd, West Valley Fire Department, 4345 Cougar Drive stated the fire department needs 120,000 gallons of water at 1,000 gallon a minute for 2 hours.

The Commissioners will render a decision Thursday, January 9 at 5:30 p.m. in room 309.

There was no other business and the meeting adjourned at 11:55 a.m.